

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Janet Hallahan,

Civil No. 18-1676 (DWF/SER)

Petitioner,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Warden Barnes,

Respondent.

This matter is before the Court upon Petitioner Janet Hallahan's ("Petitioner") objections (Doc. No. 3) to Magistrate Judge Steven E. Rau's June 28, 2018 Report and Recommendation (Doc. No. 2) insofar as it recommends that this matter be dismissed without prejudice for lack of jurisdiction. Respondent Warden Barnes filed a response to Petitioner's objections on August 6, 2018. (Doc. No. 4.)

The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections. In the Report and Recommendation, the Magistrate Judge explained that Petitioner has filed a habeas petition under § 2241 seeking relief from her sentencing. The Magistrate Judge noted, however, that such a direct challenge to a sentence must generally be raised in a motion filed under § 2255 in the district in which she was sentenced, and only if a prisoner demonstrates that the remedy provided by

§ 2255 is inadequate or ineffective to test the legality of detention (referred to as the “savings clause”) may that prisoner challenge her sentence through a petition for a writ of habeas corpus, as Petitioner has filed here. The Magistrate Judge also concluded that Petitioner has not demonstrated the inadequacy or ineffectiveness of a § 2255 motion and that Petitioner therefore cannot avail herself of the savings clause. The Magistrate Judge then concluded that Petitioner’s petition must be dismissed without prejudice for lack of jurisdiction.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). After this review, the Court finds no reason that would warrant departure from the Magistrate Judge’s recommendations. The Magistrate Judge correctly concluded that Petitioner has not met the bar necessary to invoke the savings clause. Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

1. Petitioner Janet Hallahan’s objections (Doc. No. [3]) to Magistrate Judge Steven E. Rau’s June 28, 2018 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Steven E. Rau’s June 28, 2018 Report and Recommendation (Doc. No. [2]) is **ADOPTED**.

3. This matter is **DISMISSED WITHOUT PREJUDICE FOR LACK OF JURISDICTION.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: September 5, 2018

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge